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Swiss government approves inquiry into alleged CIA flight involving Muslim preacher

The Associated Press

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GENEVA

Switzerland on Wednesday followed Italy and Germany in raising the threat of criminal prosecution of CIA operatives involved in anti-terrorism operations in Europe.

The Swiss Cabinet authorized the start of criminal proceedings against those responsible for the abduction in Italy of an Egyptian Muslim preacher allegedly taken on CIA flights through Swiss airspace.

Switzerland, which has cooperated closely in U.S. investigations and attempts to shut down terrorists' funding networks, has generally avoided open disputes with the U.S. government. But the wording of the seven-member Cabinet's statement was sharp.

"In the view of the Federal Council, the use of Swiss airspace for an abduction cannot be tolerated," the statement said. "There is evidence that basic norms of international law were violated."

Daniel Wendell, spokesman for the U.S. Embassy in the Swiss capital, Bern, said he was aware of the decision but had no specific comment.

But Wendell reiterated, "The United States has not used the airspace or airports of any country for the purpose of transporting a detainee to a country where he will be tortured."

The Swiss investigation concerns the alleged abduction of Osama Hassan Mustafa Nasr, known as Abu Omar, from a street in Milan, Italy. The CIA allegedly flew Nasr from Aviano air base in Italy across Switzerland to Ramstein air base, Germany, and then on to Cairo, Egypt, on Feb. 17, 2003.

Nasr, who was allegedly tortured during his imprisonment in Egypt, was ordered to be released Sunday by an Egyptian State Security Court that ruled his detention for four years in Egypt was unfounded.

Italian authorities have been holding a preliminary hearing in Milan to decide whether to indict 26 Americans and five Italian intelligence officials on criminal charges in the case. The hearing will conclude Friday.

Two weeks ago German prosecutors said they had issued arrest warrants for 13 suspected CIA agents who allegedly abducted a German citizen of Lebanese descent, Khaled al-Masri, in an apparently botched anti-terrorist operation.

UNITED STATES DEPARTMENT OF STATE
Al-Masri says he was detained in December 2003 at the Serbian-Macedonian border and then flown
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by the CIA to a jail in Afghanistan, where he was abused. He says he was let go in Albania five months later and told he had been seized in a case of mistaken identity.

Swiss authorities and European investigators acknowledge that they may never be able to arrest the U.S. agents, but the moves have added to strains in U.S.-European relations over how to combat terrorism.

The European Parliament on Wednesday approved a report accusing Britain, Germany, Italy and other European nations of turning a blind eye to CIA flights transporting terror suspects to secret prisons overseas in an apparent breach of EU human rights standards. Switzerland, which is not in the EU, is not mentioned in that report, which deals mainly with members of the 27-nation bloc.

Swiss prosecutors opened an investigation into the Nasr case in December 2005 and applied to the Cabinet a year later for permission to start proceedings against those involved in the kidnapping on suspicion that they violated the country's law on foreign agents.

The federal prosecutor's office has evidence that a CIA team kidnapped Nasr in Milan and then took him on the flights to Cairo, the Cabinet's statement said.

"Switzerland does not tolerate human rights violations even in the fight against terrorism," it said.

Under Swiss law, a sentence of up to three years in prison can be imposed on anyone who undertakes actions for a foreign government on Swiss territory without permission.

The law also specifies a prison term of at least one year for abduction through violence, trickery or threats, followed by delivery to a foreign agency or organization outside Switzerland.

According to the Swiss Federal Office of Civil Aviation, U.S.-registered planes suspected of being used by the CIA crossed Swiss airspace on at least 74 occasions since 2001.

One plane, registered to the U.S. Department of Defense, flew across the country twice on Feb. 17, 2003, on a flight from Ramstein to Aviano and back again to Ramstein.

Italian prosecutors reportedly have identified the plane — a Learjet 35 with the call sign SPAR92 — as being used to fly Nasr to Ramstein, from where he was taken on another plane to Cairo.

If the case in Italy goes to trial, it would be the first criminal prosecution involving the CIA's so-called "extraordinary rendition" program, in which terror suspects are secretly transferred for interrogation to third countries. Critics of the program say some suspects may have been tortured after being delivered.

The Federal Council said it rejected an application from prosecutors to investigate a second case involving an alleged CIA agent seeking information on members of a labor union in Switzerland. The council said the second case did not involve any serious infraction of the law, unlike the Abu Omar case.

Associated Press writers Frank Jordans in Geneva, Colleen Barry in Milan and Jan Sliva in Strasbourg, France, contributed to this report.

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